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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,474	01/25/2002	Bruce Christenson	EPH/27	5043

26875 7590 03/22/2005

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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MAR 22 2005

**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/057,474  
Filing Date: Jan 25, 2002  
Appellant(s): CHRISTENSON ET AL

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Gregory Lunn  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 1/18/05.

**(1) Real Party in Interest**

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A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) *Prior Art of Record***

6,082,721	Kingsley	7-2000
4,073,047	Fishbaugh et al	02-1978
5,578,680	Ando et al	11-1996
3,858,925	Gaydecki	01-1975

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fishbaugh et al (4073047) in view of Kingsley (6082721) and further in view of Gaydecki (3858925) or Ando et al (5578680).

**(10) Response to Argument**

Appellants have filed a declaration of one of the inventors, Gary Veselica, stating the results of testing heat aged phosphated surfaces of four different cured rubber members. As stated, the results of the experiment were that heat aging improved the slip torque between the metal and EPDM and ethylene acrylate, but decreased with respect to nitrile rubber and SBR rubber. Please note that Kingsley teaches this feature in col. 6 lines 58-64 and column 8 lines 38-53. To summarize, Kingsley teaches the increased bonding strength when a metal surface is coated with a phosphate material and an elastomer is attached to the metal surface.

It appears that appellant argues each reference separately. In response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Appellant argues that Kingsley lacks the teaching of a pre-cured elastomer member that is compression fitted against a phosphate surface. Please note that Kingsley is used solely for the teaching of the increased bonding strength found when bonding an

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elastomer to a phosphate coated metal surface. See col. 6 line 64 – col. 7 line 9. Please note that appellants declaration states that the bond increased after heat aging of metal and rubber. This heat aging decreases the density of the rubber and promotes bonding such as that taught by Kingsley.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DK  
March 16, 2005

Conferees  
DB

RS

*Robert A. Siconolfi* 3/16/05  
ROBERT A. SICONOLFI  
PATENT EXAMINER